

Senate Study Bill 1216 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON CHAPMAN)

A BILL FOR

1 An Act concerning alcoholic beverage control, relating to
2 limitations on business interests of certain manufacturers,
3 wholesalers, and retailers of alcoholic beverages.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 40, Code 2019, is
2 amended to read as follows:

3 40. "*Retail wine permit*" means a class "B" wine permit,
4 class "B" native wine permit, class "C" wine permit, or class
5 "C" native wine permit issued under this chapter.

6 Sec. 2. Section 123.45, Code 2019, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 01. For purposes of this section:

9 a. "*Beer manufacturer or importer*" means a holder of a
10 license or permit to manufacture beer or import beer into the
11 state, including an officer, director, agent, or managerial
12 employee of the license or permit holder and an affiliate
13 of the license or permit holder, regardless of whether the
14 affiliation is corporate or by management, direction, or
15 control.

16 b. "*Institutional investor*" means a person who maintains
17 a diversified portfolio of investments through a state or
18 federally chartered bank, a mutual fund, a retirement plan
19 or account created by an employer, the person, or another
20 individual to provide retirement benefits or deferred
21 compensation to the person, a private investment firm, or a
22 holding company publicly traded on the New York stock exchange,
23 the American stock exchange, or NASDAQ stock market and who has
24 a majority of investments in businesses other than businesses
25 that manufacture, bottle, wholesale, or sell at retail
26 alcoholic beverages.

27 Sec. 3. Section 123.45, subsection 1, unnumbered paragraph
28 1, Code 2019, is amended to read as follows:

29 A Subject to such exceptions as otherwise authorized
30 under this chapter, a person engaged in the business of
31 manufacturing, bottling, or wholesaling alcoholic beverages,
32 ~~wine, or beer~~ excluding an institutional investor, or any
33 jobber, representative, broker, employee, or agent of such a
34 person, shall not do any of the following:

35 Sec. 4. Section 123.45, subsection 1, paragraphs c and d,

1 Code 2019, are amended to read as follows:

2 *c.* Directly or indirectly be interested in the ownership,
3 conduct, or operation of the business of another licensee or
4 permittee authorized under this chapter to sell at retail,
5 unless the licensee or permittee authorized under this
6 chapter to sell at retail does not purchase or sell the
7 alcoholic beverages of the person engaged in the business of
8 manufacturing, bottling, or wholesaling alcoholic beverages.

9 *d.* Hold a retail liquor control license or retail wine or
10 beer permit, unless the licensee or permittee holding a retail
11 liquor control license or retail wine or beer permit does not
12 purchase or sell the alcoholic beverages of the person engaged
13 in the business of manufacturing, bottling, or wholesaling
14 alcoholic beverages.

15 Sec. 5. Section 123.45, Code 2019, is amended by adding the
16 following new subsections:

17 NEW SUBSECTION. 1A. Notwithstanding any provision of law to
18 the contrary, a beer manufacturer or importer shall not have
19 any ownership, in whole or in part, directly or indirectly, in
20 the license, business, assets, or corporate stock of a beer
21 wholesaler and shall not sell beer at wholesale directly to a
22 retail permittee. However, a beer manufacturer or importer
23 that manufactures no more than ten thousand barrels of beer or
24 its metric equivalent in a calendar year may own or have an
25 interest in a beer wholesaler that sells the beer that the beer
26 manufacturer or importer manufactures.

27 NEW SUBSECTION. 1B. Notwithstanding any provision of
28 law to the contrary, a person employed by a person engaged
29 in the business of manufacturing, bottling, or wholesaling
30 alcoholic beverages may be employed by another person engaged
31 in the business of manufacturing, bottling, or wholesaling
32 alcoholic beverages or by a business authorized under this
33 chapter to sell alcoholic beverages at retail if the person is
34 not an officer, owner, director, or managerial employee of the
35 person's employer or employers.

1 NEW SUBSECTION. 4. The exceptions established by this
2 section to the general prohibition against tied interests
3 shall be limited to their express terms so as not to undermine
4 the general prohibition and shall therefore be construed
5 accordingly.

6 Sec. 6. Section 123.173, subsection 1, Code 2019, is amended
7 to read as follows:

8 1. Except as provided in section 123.187, permits
9 exclusively for the sale or manufacture and sale of wine shall
10 be divided into ~~four~~ five classes, and shall be known as class
11 "A", "B", "B" native, "C", or "C" native wine permits.

12 Sec. 7. Section 123.175, subsection 2, Code 2019, is amended
13 by adding the following new paragraph:

14 NEW PARAGRAPH. *h.* For a class "C" wine permit, that the
15 applicant is a person engaged in the business of manufacturing
16 wine that is not native wine and the premises where the
17 applicant intends to operate is located on the corporate campus
18 of that person in this state.

19 Sec. 8. Section 123.177, subsection 1, Code 2019, is amended
20 to read as follows:

21 1. A person holding a class "A" wine permit may manufacture
22 and sell, or sell at wholesale, wine for consumption off the
23 premises. Sales within the state may be made only to persons
24 holding a class "A", ~~or~~ "B", or "C" wine permit and to persons
25 holding a retail liquor control license. However, if the
26 person holding the class "A" permit is a manufacturer of native
27 wine, the person may sell only native wine to a person holding
28 a retail wine permit or a retail liquor control license. A
29 class "A" wine permittee having more than one place of business
30 shall obtain a separate permit for each place of business where
31 wine is to be manufactured, stored, warehoused, or sold.

32 Sec. 9. NEW SECTION. 123.178C Authority under class "C"
33 wine permit.

34 1. A person holding a class "C" wine permit may sell wine
35 manufactured by that person at retail for consumption on or off

1 the premises.

2 2. A person holding a class "C" wine permit shall purchase
3 wine for consumption on the premises only from a person holding
4 a class "A" wine permit.

5 Sec. 10. Section 123.179, Code 2019, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 4A. The annual permit fee for a class "C"
8 wine permit is five hundred dollars.

9 Sec. 11. Section 123.185, Code 2019, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 3. Each class "C" wine permittee shall
12 submit a report to the administrator each calendar quarter
13 quantifying the volume of sales of wine during the previous
14 quarter, the name of each independent distributor that
15 distributed the wine to the point of sale during the quarter,
16 the average price per unit that the wine was sold at during
17 that quarter, and the average price per unit paid to the
18 distributor for the wine purchased during the quarter.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill concerns alcoholic beverage control relating
23 to limitations on business interests of manufacturers,
24 wholesalers, and retailers of alcoholic beverages.

25 Code section 123.45, concerning limitations on business
26 interests, is amended. The bill, for purposes of the Code
27 section, defines "beer manufacturer or importer", and
28 "institutional investor". "Beer manufacturer or importer" is
29 defined to mean a holder of a license or permit to manufacture
30 beer or import beer into the state, including an affiliate,
31 officer, director, agent, or managerial employee of the
32 license or permit holder. "Institutional investor" is defined,
33 generally, to mean a person who maintains a diversified
34 portfolio of investments and who has a majority of investments
35 in businesses other than businesses that manufacture, bottle,

1 wholesale, or sell at retail alcoholic beverages.

2 Code section 123.45(1), providing the general limitation on
3 business interests, is amended to provide that a manufacturer,
4 bottler, or wholesaler of alcoholic beverages is not an
5 institutional investor and is not prohibited from being
6 interested in the business of another retail licensee or
7 permittee, or from holding a retail liquor control license or
8 retail wine or beer permit, if the retail business, licensee,
9 or permittee does not purchase or sell the alcoholic beverages
10 of the person engaged in the business of manufacturing,
11 bottling, or wholesaling alcoholic beverages.

12 Code section 123.45, new subsection 1A, provides that a beer
13 manufacturer or importer shall not have any ownership in a beer
14 wholesaler and shall not sell beer at wholesale directly to
15 a retail permittee. However, the bill provides that a beer
16 manufacturer or importer that manufactures no more than 10,000
17 barrels of beer in a calendar year may own or have an interest
18 in a beer wholesaler that sells the beer the beer manufacturer
19 or importer manufactures.

20 Code section 123.45, new subsection 1B, provides that a
21 person employed by a manufacturer, bottler, or wholesaler of
22 alcoholic beverages may be employed by another manufacturer,
23 bottler, or wholesaler, as well as by a business authorized to
24 sell alcoholic beverages at retail, if the person is not an
25 officer, owner, director, or managerial employee of any of the
26 person's employers.

27 Code section 123.45 is further amended to provide that
28 the exceptions established by this section to the general
29 prohibition against tied interests shall be limited.

30 Code section 123.175, concerning applications for a retail
31 wine permit, is amended to provide that issuance of a class "C"
32 wine permit, as established by the bill, shall be limited to a
33 person engaged in the manufacturing of wine that is not native
34 wine who intends to operate under the permit on the corporate
35 campus of the person in this state.

1 Code section 123.177 is amended to allow a person holding a
2 class "A" wine permit to sell wine to a holder of the new class
3 "C" wine permit established in the bill.

4 New Code section 123.178C provides for the authority under
5 a class "C" wine permit which is established by the bill. The
6 bill allows a person holding a class "C" wine permit to sell
7 wine manufactured by that person at retail for consumption on
8 or off the premises and provides that the permittee purchase
9 wine for consumption on the premises only from a person holding
10 a class "A" wine permit.

11 Code section 123.179, establishing wine permit fees, is
12 amended to provide that the annual permit fee for the new class
13 "C" wine permit is \$500.

14 Code section 123.185, concerning records of wine permittees,
15 is amended to provide that a class "C" wine permittee submit
16 a quarterly report to the administrator of the alcoholic
17 beverages division regarding sales of wine by the permittee.